



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-845]

#### **Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico; Preliminary Results of the 2019-2020 Administrative Review**

**AGENCY:** Enforcement & Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that the respondents selected for individual examination, respectively, Impulsora Azucarera Del Trópico, S.A. de C.V. (Impulsora Del Tropic) and its affiliate and Ingenio Huixtla SA de C.V. (Ingenio Huixtla) and its affiliates are in compliance with the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, as amended (AD Agreement). Commerce also preliminarily determines that the AD Agreement continues to meet its statutory requirements under sections 734(c) and (d) of the Tariff Act of 1930, as amended (the Act). However, Commerce intends to address certain issues identified in this review by further discussing these issues with the signatory Mexican producers/exporters and the Government of Mexico (GOM), as appropriate. We may request consultations pursuant to the AD Agreement, as necessary, to resolve these issues.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

**FOR FURTHER INFORMATION CONTACT:** Sally C. Gannon or Jesse Montoya, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-0162 or (202) 482-8211, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On December 19, 2014, Commerce signed the AD Agreement with a representative of Mexican producers/exporters accounting for substantially all imports of sugar from Mexico, under section 734(c) of the Act, which suspended the antidumping duty (AD) investigation on sugar from Mexico.<sup>1</sup> On January 15, 2020, the AD Agreement was amended.<sup>2</sup>

On December 17, 2020, the American Sugar Coalition (ASC) and its members (petitioners)<sup>3</sup> filed a timely request for an administrative review of the AD Agreement.<sup>4</sup> On February 4, 2021, Commerce initiated an administrative review for the period December 1, 2019, through November 30, 2020.<sup>5</sup>

On March 23, 2021, Commerce selected two companies as mandatory respondents, listed in alphabetical order: Impulsora Del Tropico and Ingenio Huixtla.<sup>6</sup>

### Scope of the AD Agreement

The product covered by this AD Agreement is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. Merchandise covered by this AD Agreement is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1020, 1701.14.1040, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1015, 1701.99.1017, 1701.99.1025, 1701.99.1050, 1701.99.5015, 1701.99.5017, 1701.99.5025, 1701.99.5050, and 1702.90.4000.<sup>7</sup> The tariff classification is

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<sup>1</sup> See *Sugar from Mexico: Suspension of Antidumping Investigation*, 79 FR 78039 (December 29, 2014) (*AD Agreement*).

<sup>2</sup> See *Sugar from Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 85 FR 3620 (January 22, 2020) (*AD Amendment*) (collectively, as integrated into the *AD Agreement*, amended *AD Agreement*).

<sup>3</sup> The members of the American Sugar Coalition are as follows: American Sugar Cane League; American Sugarbeet Growers Association; American Sugar Refining, Inc.; Florida Sugar Cane League; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and the United States Beet Sugar Association.

<sup>4</sup> See Petitioners' Letter, "Sugar from Mexico: Request for Administrative Review," dated December 17, 2020.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 8166 (February 4, 2021).

<sup>6</sup> See Memorandum, "2019 - 2020 Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico As Amended; Respondent Selection," dated March 23, 2021.

<sup>7</sup> Prior to July 1, 2016, merchandise covered by the AD Agreement was classified in the HTSUS under subheading 1701.99.1010. Prior to January 1, 2020, merchandise covered by the AD Agreement was classified in the HTSUS under subheadings 1701.14.1000 and 1701.99.5010.

provided for convenience and customs purposes; however, the written description of the scope of this AD Agreement is dispositive.<sup>8</sup>

### Methodology and Preliminary Results

Commerce has conducted this review in accordance with section 751(a)(1)(C) of the Act, which specifies that Commerce shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” In this case, Commerce and Mexican producers/exporters accounting for substantially all imports of sugar from Mexico, signed the AD Agreement, which suspended the underlying antidumping duty investigation, on December 19, 2014, and was subsequently amended on January 15, 2020. Pursuant to the AD Agreement, each signatory producer/exporter individually agrees that it will not sell subject merchandise at prices less than the reference prices established in Appendix I to the AD Agreement.<sup>9</sup> Each signatory producer/exporter also individually agrees that for each entry the amount by which the estimated normal value exceeds the export price (or the constructed export price) will not exceed 15 percent of the weighted average amount by which the estimated normal value exceeded the export price (or constructed export price) for all less-than-fair-value entries of the producer/exporter examined during the course of the investigation.<sup>10</sup> The signatory producers/exporters also individually agree to provide documentation upon request from Commerce<sup>11</sup> and provide certifications each quarter<sup>12</sup> to allow Commerce to monitor the AD Agreement. In addition, the signatory producers/exporters agree to incorporate into their sales contracts with Intermediary Customers<sup>13</sup> the obligation that such customers will abide by the terms of the AD Agreement.<sup>14</sup> Lastly, the signatory producers/exporters agree to ensure that

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<sup>8</sup> For a complete description of the Scope of the AD Agreement, *see* Memorandum, “Issues and Decision Memorandum for the Preliminary Results of the 2019-2020 Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, as Amended,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>9</sup> *See amended AD Agreement* at Section VI and Appendix I.

<sup>10</sup> *Id.* at Section VI.

<sup>11</sup> *Id.* at Sections VII.B.1, VII.B.2, and VII.B.4.

<sup>12</sup> *Id.* at Section VII.C.4.

<sup>13</sup> “Intermediary Customer” is defined in Section II.N of the *AD Agreement*.

<sup>14</sup> *See AD Amendment* at Section VII.C.5.

Other Sugar<sup>15</sup> is tested for polarity by a laboratory approved by CBP upon entry into the United States and that the importers of record report the polarity test results for each entry to Commerce within 30 days of entry.<sup>16</sup>

After reviewing the information received to date from the respondent companies in their questionnaire and supplemental questionnaire responses, we preliminarily determine that the respondents have adhered to the terms of the AD Agreement and that the AD Agreement is functioning as intended. Further, we preliminarily determine that the AD Agreement continues to meet the statutory requirements under sections 734(c) and (d) of the Act. However, Commerce is exploring additional measures to help prevent reporting and recordkeeping issues with regard to certain transactions that may serve to diminish the effective monitoring and enforcement of the AD Agreement. Commerce intends to address certain issues identified in this review by discussing these issues with the signatory Mexican producers/exporters and the GOM, as appropriate. We may request consultations pursuant to the AD Agreement, as necessary, to resolve these issues.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>. Commerce is also addressing proprietary issues concerning each of the respondents in separate memoranda which we incorporate into the Preliminary Decision Memorandum.<sup>17</sup>

### Verification

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<sup>15</sup> "Other Sugar" is defined Section II.F of the *AD Amendment*.

<sup>16</sup> *See AD Amendment* at Section VII.C.6.

<sup>17</sup> *See Preliminary Decision Memorandum* at 6 and footnote 47.

As provided in section 782(i)(3)(a) of the Act, Commerce verified the information relied upon in making its preliminary results. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this review. Accordingly, we chose to verify the information relied upon in making the preliminary results through alternative means in lieu of an on-site verification. Commerce issued a questionnaire in lieu of on-site verification to each of the respondents in the review.<sup>18</sup> Any issues that arose are addressed in the Preliminary Decision Memorandum and in the accompanying proprietary memorandum for each respondent.

#### Public Comment

Case briefs are due 30 days from the publication of these preliminary results in the *Federal Register*. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.

Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>19</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>20</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via Commerce's electric records system, ACCESS. An electronically filed request must be received successfully in its entirety by 5:00 p.m. Eastern Time within 30 days after the

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<sup>18</sup> See Commerce's Letter, "Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico: In Lieu of On-Site Verification Questionnaire," dated November 23, 2021.

<sup>19</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>20</sup> See 19 CFR 351.309(c)(2) and (d)(2).

date of publication of this notice.<sup>21</sup> Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.<sup>22</sup> Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act, unless extended.

#### Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 30, 2021.

**Ryan Majerus,**  
*Deputy Assistant Secretary  
for Policy and Negotiations  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance.*

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<sup>21</sup> See 19 CFR 351.310(c).

<sup>22</sup> See 19 CFR 351.310(d).